

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,	)	
	)	
Plaintiff,	)	C.A. No.: 04-1350 (GMS)
	)	
v.	)	
	)	
DR. SYLVIA FOSTER, STAFF	)	
MEMBERS, THE DELAWARE	)	JURY TRIAL DEMANDED
PSYCHIATRIC CENTER and	)	
MR. GREY,	)	
	)	
Defendants.	)	

**DEFENDANT DR. SYLVIA FOSTER'S ANSWER  
TO THE SECOND AMENDED COMPLAINT**

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1. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

2. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

3. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

4. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

5. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

6. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

7. To the extent this paragraph may be interpreted to raise claims against Answering Defendant Foster, the allegations in this paragraph is denied.

8. Denied.

**FIRST AFFIRMATIVE DEFENSE**

9. Plaintiff has failed to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

10. Defendant Sylvia Foster is entitled to qualified immunity.

**THIRD AFFIRMATIVE DEFENSE**

11. Defendant Sylvia Foster is entitled to full immunity privilege for reporting judicial proceedings.

**FOURTH AFFIRMATIVE DEFENSE**

12. Plaintiff has failed to exhaust his administrative remedies under the present Litigation Reform Act, 42 U.S.C. §1997(e); and the Mental Health Patient Bill of Rights 16 *Del. C.* §5161.

**FIFTH AFFIRMATIVE DEFENSE**

13. Plaintiff's claims in full or in part are barred by the doctrine of comparative negligence and/or assumption of the risk.

**SIXTH AFFIRMATIVE DEFENSE**

14. If Plaintiff sustained injuries as alleged in his Complaint, which is herein strictly denied, Plaintiff's injuries were caused by individuals over which Answering Defendant had no control.

**SEVENTH AFFIRMATIVE DEFENSE**

15. Answering Defendant hereby gives notice that she intends to rely upon such other and further affirmative defenses which become available or apparent during pretrial discovery or litigation proceedings in this action and hereby reserves the right to assert any such affirmative defenses which are incorporated herein by reference and made a part hereof as though set forth fully herein.

**EIGHTH AFFIRMATIVE DEFENSE**

16. Plaintiff's claims are barred by doctrines of laches, estoppel, acquiescence, ratification, unclean hands and waiver.

WHEREFORE, Answering Defendant prays this Court dismiss Plaintiff's Complaint with prejudice.

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire

Cynthia G. Beam, Esquire

Delaware State Bar I.D. No. 2565

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(302) 652-3611

Attorney for Defendant Dr. Sylvia Foster

Dated: June 15, 2006

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FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,	)	
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Plaintiff,	)	C.A. No.: 04-1350 (GMS)
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PSYCHIATRIC CENTER and	)	
MR. GREY,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify on this 15<sup>th</sup> day of June, 2006 that two true and correct copies of Defendant Dr. Sylvia Foster's Answer to the Second Amended Complaint have been served by first class mail, postage prepaid, to the following:

Jimmie Lewis  
SBI#506622  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire

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Attorney for Defendant Dr. Sylvia Foster

Dated: June 15, 2006